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CHARLES W. MCCALL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHARLES W. MCCALL and JAY M.
LAPINE,

Defendants.

Case No.: CR-00-0505-WHA

EX PARTE APPLICATION AND
~~PROPOSED~~ ORDER FOR RELEASE TO
ALLOW SELF-SURRENDER

The Honorable William H. Alsup

1 Defendant Charles W. McCall respectfully submits this *ex parte* application, along
2 with a supporting declaration from Michael J. Shepard.

3 1. On March 5, 2010, this Court sentenced defendant Charles W. McCall to 10 years
4 incarceration, with a recommendation that the time be served in a camp in Florida, where he
5 resides. He was ordered to report to the US Marshal on March 31.

6 2. On March 15, 2010, Mr. McCall filed a Motion for Release Pending Appeal in the
7 United States Court of Appeals for the Ninth Circuit, which stayed his surrender date pursuant to
8 Circuit Local Rule 9-1.2(e) until the Court of Appeals resolved his Motion.

9 3. Late in the afternoon on Thursday, April 15, 2010, the Court of Appeals denied Mr.
10 McCall's Motion.

11 4. On Monday, April 19, 2010, at about 12:30 pm, after consulting with the Marshal, Mr.
12 McCall surrendered and is now in custody at North County Jail (Glenn Dyer) in Oakland,
13 California.

14 5. At about 1:45 pm that same afternoon, April 19, 2010, this Court entered an order
15 Clarifying Judgment and Voluntary Surrender, in which the Court ordered that Mr. McCall shall
16 report no later than noon on April 23, 2010, to the federal institution designated by the Bureau of
17 Prisons or, if one was not yet designated, to the United States Marshal's Office in San Francisco, to
18 begin serving his sentence.

19 6. Today, at approximately 1:00 pm pacific time, the Bureau of Prisons informed one of
20 Mr. McCall's counsel that it designated Mr. McCall to the United States Prison Camp in Pensacola,
21 Florida. During the week, the Bureau of Prisons had been working diligently with Mr. McCall's
22 counsel in order to speed the designation process in the hope of meeting the self-surrender deadline.
23 Attached to the supporting declaration of Michael J. Shepard as Exhibit A is an email from an
24 official at the Bureau of Prisons setting forth the benefit to the Bureau's budget if Mr. McCall were
25 allowed to self-report to the designated institution.

26 7. Mr. McCall is ordinarily on regular medication for health issues such as high blood
27 pressure. As of 9:00 am today, he had not received any of those medications since his self-
28 surrender.

1 8. As a result of his self-surrender to the United States Marshal approximately an hour
2 before the Court's order clarifying the terms of his voluntary surrender, Mr. McCall lost the
3 opportunity to self-surrender to the designated institution. Instead, absent the requested relief, the
4 Bureau of Prisons will now have to incur the unnecessary burden and expense of transporting him
5 across country. In addition to the cost to the government, the trip would be long and difficult for
6 Mr. McCall. See attached email from the Bureau of Prisons. If Mr. McCall were released from
7 custody and allowed to self-report to Pensacola by noon on Tuesday, April 27, 2010, these
8 burdens could be avoided, and Mr. McCall would be spending approximately the same time out of
9 custody that the court intended to allow in its April 19, 2010 order.

10 9. After learning of Mr. McCall's designation to Pensacola this afternoon, counsel for Mr.
11 McCall communicated with Acting United States Attorney David Anderson about this Application.
12 Mr. Anderson authorized counsel to state that "we do not oppose this Application."

13
14 THEREFORE, McCall requests that the court order as follows:

15 1. The United States Marshal and the Bureau of Prisons are hereby ordered, or in the
16 alternative requested, to release Charles W. McCall immediately so that he can self-report to the
17 United States Prison Camp at Pensacola, Florida, on or before noon on Tuesday, April 27, 2010.

18 2. Mr. McCall is ordered to surrender to the United States Prison Camp at Pensacola,
19 Florida on or before noon on Tuesday, April 27, 2010.

20 3. The clerk of the court shall retain Mr. McCall's bond until his surrender to the United
21 States Prison Camp at Pensacola, Florida, and the bond shall remain in effect.

1 DATED: April 22, 2010

HOGAN & HARTSON LLP

2
3 By: /s/ Michael J. Shepard
4 Michael J. Shepard

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6 LLP
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11 Attorneys for Defendant
12 CHARLES W. McCALL

13 IT IS SO ORDERED.

14 DATED: April 23, 2010

15 THE HONORABLE

